

(b)(2) and (b)(5) of this section and provide a book and theoretical reserve summary and a summary of basic factors underlying proposed rates by account.

(3) Interexchange carriers regulated under price caps, pursuant to §§61.41 through 61.49 of this chapter, are exempted from submitting the supplemental information as described in paragraph (c) introductory text of this section. They shall instead submit: Generation data, a summary of basic factors underlying proposed depreciation rates by account and a short narrative supporting those basic factors, including company plans of forecasted retirements and additions, recent annual retirements, salvage and cost of removal.

(d) Each report shall be filed in duplicate and the original shall be signed by the responsible official to whom correspondence related thereto should be addressed.

(e) Unless otherwise directed or approved by the Commission, the following shall be observed: Proposed changes in depreciation rates shall be filed at least ninety (90) days prior to the last day of the month with respect to which the revised rates are first to be applied in the accounts (*e.g.*, if the new rates are to be first applied in the depreciation accounts for September, they must be filed on or before July 1). Such rates may be made retroactive to a date not prior to the beginning of the year in which the filing is made: *Provided however*, that in no event shall a carrier for which the Commission has prescribed depreciation rates make any changes in such rates unless the changes are prescribed by the Commission. Carriers who select basic factors that fall within the basic factor ranges for all accounts are exempt from depreciation rate prescription by the Commission.

(f) Any changes in depreciation rates that are made under the provisions of paragraph (e) of this section shall not be construed as having been approved

by the Commission unless the carrier has been specifically so informed.

[28 FR 13214, Dec. 5, 1963, as amended at 30 FR 3223, Mar. 9, 1965; 53 FR 49987, Dec. 13, 1988; 58 FR 58790, Nov. 4, 1993; 61 FR 50246, Sept. 25, 1996; 62 FR 39779, July 24, 1997; 65 FR 18931, Apr. 10, 2000]

EFFECTIVE DATE NOTE: At 65 FR 18931, Apr. 10, 2000, §43.43 was amended by revising paragraphs (c) and (e). These paragraphs contain information collection requirements and will not become effective until approval by the Office of Management and Budget.

§ 43.51 Contracts and concessions.

(a) Any communications common carrier that: is engaged in domestic communications and has not been classified as nondominant pursuant to §61.3 of this chapter or, except as provided in paragraphs (f) and (g) of this section, is engaged in foreign communications, and enters into a contract with another carrier, including an operating agreement with a communications entity in a foreign point for the provision of a common carrier service between the United States and that point; must file with the Commission, within thirty (30) days of execution, a copy of each contract, agreement, concession, license, authorization, operating agreement or other arrangement to which it is a party and amendments thereto with respect to the following:

(1) The exchange of services;

(2) Except as provided in paragraph (c) of this section, the interchange or routing of traffic and matters concerning rates, accounting rates, division of tolls, or the basis of settlement of traffic balances; and

(3) The rights granted to the carrier by any foreign government for the landing, connection, installation, or operation of cables, land lines, radio stations, offices, or for otherwise engaging in communication operations.

(b) If the agreement referred to in this section is made other than in writing, a certified statement covering all details thereof must be filed by at least one of the parties to the agreement. Each other party to the agreement which is also subject to these provisions may, in lieu of also filing a copy

of the agreement, file a certified statement referencing the filed document. The Commission may, at any time and upon reasonable request, require any communication common carrier not subject to the provisions of this section to submit the documents referenced in this section.

(c) With respect to contracts coming within the scope of paragraph (a)(2) of this section between subject telephone carriers and connecting carriers, except those contracts related to communications with foreign or overseas points, such documents shall not be filed with the Commission; but each subject telephone carrier shall maintain a copy of such contracts to which it is a party in appropriate files at a central location upon its premises, copies of which shall be readily accessible to Commission staff and members of the public upon reasonable request therefor; and upon request by the Commission, a subject telephone carrier shall promptly forward individual contracts to the Commission.

(d) Any U.S. carrier that interconnects an international private line to the U.S. public switched network, at its switch, including any switch in which the carrier obtains capacity either through lease or otherwise, shall file annually with the Chief of the International Bureau a certified statement containing the number and type (e.g., a 64-kbps circuit) of private lines interconnected in such a manner. The certified statement shall specify the number and type of interconnected private lines on a country specific basis. The identity of the customer need not be reported, and the Commission will treat the country of origin information as confidential. Carriers need not file their contracts for such interconnections, unless they are specifically requested to do so. These reports shall be filed on a consolidated basis on February 1 (covering international private lines interconnected during the preceding January 1 to December 31 period) of each year. International private lines to countries for which the Commission has authorized the provision of switched basic services over private lines at any time during a particular reporting period are exempt from this requirement.

(e) *International settlements policy.* (1) Except as provided in paragraph (g) of this section, if a carrier files an operating agreement (whether in the form of a contract, concession, license, etc.) referred to in paragraph (a) of this section to begin providing switched voice, telex, telegraph, or packet-switched service between the United States and a foreign point and the terms and conditions of such agreement relating to the exchange of services, interchange or routing of traffic and matters concerning rates, accounting rates, division of tolls, the allocation of return traffic, or the basis of settlement of traffic balances, are not identical to the equivalent terms and conditions in the operating agreement of another carrier providing the same or similar service between the United States and the same foreign point, the carrier must also file with the International Bureau a modification request under § 64.1001 of this chapter. Unless a carrier is providing switched voice, telex, telegraph, or packet-switched service between the United States and a foreign point pursuant to an operating agreement that is exempt from the international settlements policy under paragraph (g) of this section, the carrier shall not bargain for or agree to accept more than its proportionate share of return traffic.

(2) Except as provided in paragraph (g) of this section, if a carrier files an amendment to the operating agreement referred to in paragraph (a) of this section under which it already provides switched voice, telex, telegraph, or packet-switched service between the United States and a foreign point, and other carriers provide the same or similar service to the same foreign point, and the amendment relates to the exchange of services, interchange or routing of traffic and matters concerning rates, accounting rates, division of tolls, the allocation of return traffic, or the basis of settlement of traffic balances, the carrier must also file with the International Bureau a modification request under § 64.1001 of this chapter.

(f) *Confidential treatment.* (1) A carrier providing service on an international route that is exempt from the international settlements policy under

paragraph (g)(2) of this section, but that is required by paragraph (a) or (b) of this section to file a contract covering that route with the Commission, may request confidential treatment under § 0.457 of this chapter for the rates, terms and conditions that govern the settlement of U.S. international traffic.

(2) Carriers requesting confidential treatment under this paragraph must include the information specified in § 64.1001(c) of this chapter. Such filings shall be made with the Commission, with a copy to the Chief, International Bureau. The transmittal letter accompanying the confidential filing shall clearly identify the filing as responsive to § 43.51(f).

(g) Exemption from the international settlements policy and contract filing requirements.

(1) A carrier that enters into a contract, including an operating agreement, for the provision of a common carrier service between the United States and a foreign point with a carrier that lacks market power in that foreign market is not subject to the requirements of paragraphs (a), (b) or (e) of this section.

(i) A foreign carrier lacks market power for purposes of paragraph (g)(1) of this section if it does not appear on the Commission's list of foreign carriers that do not qualify for the presumption that they lack market power in particular foreign points. The list of foreign carriers that do not qualify for the presumption that they lack market power in particular foreign points is available from the International Bureau's World Wide Web site at <http://www.fcc.gov/ib>.

(ii) The Commission will include on the list of foreign carriers that do not qualify for the presumption that they lack market power in particular foreign points any foreign carrier that has 50 percent or more market share in the international transport or local access markets of a foreign point. A party that seeks to remove such a carrier from the Commission's list bears the burden of submitting information to the Commission sufficient to demonstrate that the foreign carrier lacks 50 percent market share in the inter-

national transport and local access markets on the foreign end of the route or that it nevertheless lacks sufficient market power on the foreign end of the route to affect competition adversely in the U.S. market. A party that seeks to add a carrier to the Commission's list bears the burden of submitting information to the Commission sufficient to demonstrate that the foreign carrier has 50 percent or more market share in the international transport or local access markets on the foreign end of the route or that it nevertheless has sufficient market power to affect competition adversely in the U.S. market.

(2) A carrier that enters into a contract, including an operating agreement, with a carrier in a foreign point for the provision of a common carrier service between the United States and that point is not subject to the international settlements policy in paragraph (e) of this section if the foreign point appears on the Commission's list of international routes that the Commission has exempted from the international settlements policy. The list of exempt routes is available from the International Bureau's World Wide Web site at <http://www.fcc.gov/ib>.

(i) A party that seeks to add a foreign market to the list of markets that are exempt from the international settlements policy must show that U.S. carriers are able to terminate at least 50 percent of U.S.-billed traffic in the foreign market at rates that are at least 25 percent below the benchmark settlement rate adopted for that country in IB Docket No. 96-261.

(ii) A party that seeks to remove a foreign market from the list of markets that are exempt from the international settlements policy must show that U.S. carriers are unable to terminate at least 50 percent of U.S.-billed traffic in the foreign market at rates that are at least 25 percent below the benchmark settlement rate adopted for that country in IB Docket No. 96-261.

NOTE TO PARAGRAPH (g): The Commission's benchmark settlement rates are available in International Settlement Rates, IB Docket

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No. 96-261, *Report and Order*, 12 FCC Rcd 19,806, 62 FR 45758 (August 29, 1997).

[51 FR 45890, Dec. 23, 1986, as amended at 56 FR 25371, June 4, 1991; 57 FR 647, Jan. 8, 1992; 58 FR 48323, Sept. 15, 1993; 60 FR 52866, Oct. 11, 1995; 61 FR 59200, Nov. 21, 1996; 62 FR 5541, Feb. 6, 1997; 62 FR 8633, Feb. 26, 1997; 62 FR 64751, Dec. 9, 1997; 64 FR 34740, June 29, 1999]

§ 43.53 Reports regarding division of international toll communication charges.

(a) Each communication common carrier engaged directly in the transmission or reception of telegraph communications between the continental United States and any foreign country (other than one to which the domestic word-count applies) shall file a report with the Commission within thirty (30) days of the date of any arrangement concerning the division of the total telegraph charges on such communications other than transiting. A carrier first becoming subject to the provisions of this section must, within thirty (30) days thereafter, file with the Commission a report covering any such existing arrangements.

(b) In the event that any change is made which affects data previously filed, a revised page incorporating such change or changes must be filed with the Commission not later than thirty (30) days from the date the change is made, provided, however, that any change in the amount of foreign participation in charges for outbound communications or in the respondent's participation in charges for inbound communications must be filed not later than thirty (30) days from the date the change is agreed upon.

(c) A single copy of each such report must be filed in a format that contains a clear, concise and definite statement of the arrangements.

[51 FR 45891, Dec. 23, 1986, as amended at 52 FR 8453, Mar. 18, 1987]

§ 43.61 Reports of international telecommunications traffic.

(a) Each common carrier engaged in providing international telecommunications service between the area comprising the continental United States, Alaska, Hawaii, and off-shore U.S. points and any country or point outside that area shall file a report with

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the Commission not later than July 31 of each year for service actually provided in the preceding calendar year.

(1) The information contained in the reports shall include actual traffic and revenue data for each and every service provided by a common carrier, divided among service billed in the United States, service billed outside the United States, and service transiting the United States. In addition, it shall include the number of minutes of outbound and inbound traffic settled pursuant to each alternative arrangement entered into pursuant to § 64.1002 of this chapter.

(2) Each common carrier shall submit a revised report by October 31 identifying and correcting any inaccuracies included in the annual report exceeding five percent of the reported figure.

(3) The information required under this section shall be furnished in conformance with the instructions and reporting requirements prepared under the direction of the Chief, Common Carrier Bureau, prepared and published as a manual, in consultation and coordination with the Chief, International Bureau.

(b) *Quarterly Traffic Reports.* (1) Each common carrier engaged in providing international telecommunications service between the area comprising the continental United States, Alaska, Hawaii, and off-shore U.S. points and any country or point outside that area shall file with the Commission, in addition to the report required by paragraph (a) of this section, actual traffic and revenue data for each calendar quarter in which the carrier's quarterly minutes exceed the corresponding minutes for all carriers by one or more of the following tests:

(i) The carrier's aggregate minutes of facilities-based or facilities resale switched telephone traffic for service billed in the United States are greater than 1.0 percent of the total of such minutes of international traffic for all U.S. carriers published in the Commission's most recent § 43.61 annual report of international telecommunications traffic;

(ii) The carrier's aggregate minutes of facilities-based or facilities resale switched telephone traffic for service billed outside the United States are